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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2312/2024

SAMIR AMIR SAIYED

.....Petitioner

Through: Mr. Ashish Deep Verma, Mr. Mir
Adnan Zahoor, Mr. Vaasav Mittal,
Ms. Srihsti Ramchandani, Ms. Kamya
Ritu Verma and Mr. Harsh Singh,
Advocates.

versus

STATE (GOVERNMENT OF NCT OF DELHI)Respondent

Through: Ms. Shubhi Gupta, APP for the State.
Complainant in person *via* video-
conferencing.
SI Girish, P.S. Paharganj.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

19.11.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks regular bail in case FIR No.69/2021 dated 23.03.2021 registered under section 306 of the Indian Penal Code, 1860 ('IPC') at P.S.: Paharganj, Delhi.

2. Notice on this petition was issued on 08.07.2024.
3. Intimation of the pendency of the present proceedings was sent to the next-of-kin of the deceased.
4. Status report dated 08.09.2024 has been filed in the matter.
5. Nominal Roll dated 27.08.2024 has also been received from the concerned Jail Superintendent.
6. As recorded in order dated 10.09.2024, Ms. Nilu, the widow of the deceased (and complainant in the case) had sought time to engage



private counsel. She has joined the proceedings *via* video-conferencing today. She states that she has engaged counsel; who is however not present in court today.

7. The court has heard Mr. Ashish Deep Verma, learned counsel appearing for the petitioner; Ms. Shubhi Gupta, learned APP appearing for the State; as well as Ms. Nilu, who is the wife of the deceased and the complainant in the case.
8. Mr. Verma submits, that in the present case, the essential ingredient of the offence of abetment to suicide under section 306 of the IPC is not made-out. To support this submission, he first draws attention to the alleged 'suicide note' left by the deceased, a copy of which has been appended to the bail petition. Counsel points-out that the so-called suicide note only narrates, in a general way, that '*whatever has happened is because of Sameer*', namely the petitioner; but there is nothing in the suicide note that can be read to mean that the petitioner had *instigated the deceased to commit suicide* for any reason.
9. Counsel submits, that the genesis of the allegation in the FIR is that sometime in December 2020, the petitioner had had a transaction with the deceased in relation to the sale of a certain vehicle, and arising from that transaction, the subject FIR reads as follows :

“... .. My husband Durgesh Rao used to do the work of sale and purchase of old cars in Surat. A person named Sameer is a dealer of old vehicles in Surat. My husband used to sell vehicles after purchasing them from Sameer. In December 2020, my husband did a deal with Sameer of an old Fortuner car for Rs 25 lakh. My husband had given Rs 15 lakh to Sameer in December itself. My husband had also transferred some money to Sameer's account. Sameer did not give the car. My husband repeatedly demanded the



car but Sameer did not give the car and then he asked for the money back. But Sameer did not return it. My husband bought some more vehicles from Sameer in the month of December.”

(emphasis supplied)

10. Counsel submits, that on another note, the court must also note that the deceased himself was an accused in case FIR bearing No. 700/2020 dated 06.12.2020 registered under sections 411/413/420 of the IPC at P.S.: Gazipur, Lucknow North, Uttar Pradesh and was facing criminal proceedings in that case.
11. Counsel further argues, that it is part of the record that the deceased came to Delhi and checked into a hotel called ‘*Hotel Golden Wings*’ in Paharganj on 10.03.2021 and stayed there till 22.03.2021, when he was found to have committed suicide in his hotel room. Mr. Verma also submits, that Forensic Science Laboratory Report dated 22.02.2022 (‘FSL’) shows presence of a high quantity of alcohol in the viscera and in the blood of the deceased.
12. Counsel submits, that there is no allegation in the subject FIR or in any material that has come on record alongwith the charge-sheet to even remotely suggest that the petitioner had in any manner *instigated* the act of suicide on the part of the deceased.
13. It is pointed-out that investigation in the matter is complete and charge-sheet has been filed. Pertinently, charges have been framed against the petitioner *only* under section 306 of the IPC.
14. In the meantime, counsel points-out that the petitioner has suffered more than 01 year of judicial custody as an under-trial, with only a



short spell of interim bail for about a month; that his jail conduct has been ‘satisfactory’; and that he has no other criminal implication.

15. Counsel also submits, that the prosecution has cited 26 witnesses on their behalf, but recording of evidence is yet to commence.
16. He accordingly submits, that the petitioner deserves to be admitted to regular bail.
17. On the other hand, Ms. Shubhi Gupta, learned APP appearing for the State opposes the grant of bail, submitting that in their statements recorded under section 161 of the Cr.P.C. several witnesses have blamed the petitioner for the extreme step that the deceased took, and it is the prosecution case that the deceased was left with no option but to end his life only by reason of the dishonest financial dealings that he had to face with the petitioner.
18. Ms. Gupta places strong reliance on the suicide note alleged to have been left by the deceased, to point-out that the suicide note *only names* the petitioner.
19. Ms. Nilu, the complainant and widow of the deceased has supported the submissions made by the learned APP, to stress that it was by reason of the dishonest financial dealings with the petitioner, that her husband was forced to commit suicide.
20. While considering the present case, this court must first refer to the interpretation of section 306 IPC rendered by the Supreme Court in its recent decision dated 03.10.2024 in *Nipun Aneja and Others vs.*



*State of Uttar Pradesh*¹, where the Supreme Court has *inter-alia* held as follows :

“21. The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased **due to direct and alarming encouragement/incitement by the accused** leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and regulations.

¹ 2024 INSC 767



“22. The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.”

(emphasis supplied)

21. In the backdrop of the aforesaid enunciation of the law, and looking at the uncontroverted position in the present case, what prevails with the court *at this stage*, is the following considerations :



- 21.1. Though there were some financial transactions between the petitioner and the deceased relating to sale/purchase of vehicles, including a transaction relating to a Fortuner vehicle in December 2020 towards which the deceased is stated to have paid to the petitioner a sum of Rs.15 lacs, and that deal went into dispute, it is also the position that the deceased bought other vehicles from the petitioner, even after that episode;
- 21.2. It is the prosecution's own case that the deceased checked into a hotel in Delhi on *10.03.2021* and was found to have committed suicide in that very room on *22.03.2021*, but there is no allegation that there was any interaction or engagement between the petitioner and the deceased during the period of the latter's stay in that hotel;
- 21.3. Though the suicide note alleged to have been left by the deceased does name the petitioner as the reason for '*whatever has happened*', that phrase could possibly be a reference to the financial difficulties in which the deceased found himself, or perhaps even to the suicide; however there is nothing in the suicide note nor any other material to suggest that the petitioner had either *intended the consequences* or *instigated* the deceased to commit suicide;
- 21.4. Even in the statements of some of the witnesses recorded under section 161 of the Cr.P.C., as read by the learned APP, there is nothing to suggest that the petitioner had instigated the act of suicide on the part of the deceased; and



- 21.5. The FSL report has also found the presence of alcohol in the viscera and in the blood of the deceased.
22. In the above backdrop, Nominal Roll dated 27.08.2024 received from the Jail Superintendent shows that the petitioner has already spent more than 01 year in judicial custody as an under-trial, with only a brief spell of interim bail for about a month; his jail conduct has been ‘satisfactory’; and he has no other criminal involvements.
23. Also, recording of the evidence is yet to begin and not even 01 of the 26 witnesses cited in the charge-sheet has deposed before the learned trial court as of now.
24. It is also noteworthy that charge has been framed against the petitioner *only* under section 306 of the IPC and for no other offence.
25. On a balance of the foregoing considerations and in the circumstances obtaining in the matter, this court is persuaded to admit the petitioner – **Sameer Saiyad s/o Saiyad Amir**- to *regular bail* pending trial, subject to the following conditions :
- 25.1. The petitioner shall furnish a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with 02 sureties in the like amount (one from the petitioner’s wife, who is stated to be ordinarily a resident of Surat; and the other, a local surety from Delhi) to the satisfaction of the learned trial court;
- 25.2. The petitioner shall furnish to the Investigating Officer/S.H.O., P.S.: Daryaganj, Delhi a cellphone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;



- 25.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 25.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 25.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
26. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
27. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
28. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
29. The petition stands disposed-of.
30. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 19, 2024

V.Rawat